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Ian Gazes, Esq.  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:	:	
PHOENIX PARTNERS MANAGEMENT	:	Case No. 15-10926-reg
LLC,	:	Chapter 7
	:	
Debtor.	:	
In re:	:	
PHOENIX COMMODITIES GROUP, LLC	:	Case No. 15-10927-reg
	:	Chapter 7
	:	
Debtor.	:	
In re:	:	
PHOENIX GREENWORKS CAPITAL	:	Case No. 15-10928-reg
LLC	:	Chapter 7
	:	
Debtor.	:	
In re:	:	
PHOENIX ENVIRONMENTAL GROUP	:	Case No. 15-10929-reg
LLC	:	Chapter 7
	:	
Debtor.	:	
In re:	:	
PPG WEST LLC,	:	Case No. 15-10930-reg
	:	Chapter 7
	:	
Debtor.	:	

-----x  
In re: :  
: Case No. 15-10931-reg  
PHOENIX DERIVATIVES GROUP LLC, : Chapter 7  
:  
Debtor. :  
-----x  
In re: :  
: Case No. 15-10952-reg  
PHOENIX PARTNERS GROUP LP, : Chapter 7  
:  
Debtor. :  
-----x

**APPLICATION FOR AN ORDER AUTHORIZING THE TRUSTEE TO RETAIN CBIZ  
ACCOUNTING, TAX & ADVISORY OF NEW YORK, LLC AND CBIZ, INC.**

**TO THE HONORABLE ROBERT E. GERBER  
UNITED STATES BANKRUPTCY JUDGE:**

Upon the application (the “Application”) of Ian J. Gazes, interim chapter 7 trustee (the “Applicant” or “Trustee”) of the above-captioned debtors (the “Debtors”), for an order, substantially in the form attached as Exhibit “A”, authorizing and empowering the Trustee to retain the CBIZ Accounting, Tax and Advisory of New York, LLC (“CBIZ NY”) and its affiliates with offices throughout the country that are wholly-owned subsidiaries of CBIZ, Inc. (collectively, “CBIZ”) as accountants to the Trustee effective as of April 16, 2015, the Trustee respectfully states as follows:

**I. SUMMARY OF RELIEF REQUESTED**

1. Applicant seeks an order of this Court authorizing and empowering the Trustee to retain CBIZ as accountants effective April 16, 2015. CBIZ’s retention is necessary to review and analyze all accounting matters concerning the Debtors’ financial affairs.

**II. JURISDICTION, VENUE AND STATUTORY PREDICATES FOR RELIEF**

2. This Court has jurisdiction over this matter under sections 157(a), (b)(1) of title 28 of the United States Code, 28 U.S.C. §§ 157(a), (b)(1), and 1334(b), and the Amended Stating

Order of Reference of the United States District Court for the Southern District of New York.

Consideration of this Application is a core proceeding under section 157(b)(2)(A) of title 28 of the United States Code. *See* 28 U.S.C. §§ 157(b)(2)(A).

3. Venue of this case in this district is proper under section 1408 of title 28 of the United States Code. *See* 28 U.S.C. § 1408.

4. The statutory provisions governing the relief requested in this Application are sections 327(a) f title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014-1of the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”).

### **III. BACKGROUND**

1. On April 14, 2015, Phoenix Partners Management LLC, Phoenix Commodities Group, LLC, Phoenix Greenworks Capital LLC, Phoenix Environmental Group LLC, PPG West LLC, and Phoenix Derivatives Group, LLC each filed a voluntary petition under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the “Court”). Each of the foregoing debtors subsequently filed an amended petition to reflect that each of the foregoing cases was related to one another as well as that of Phoenix Partners Group LP which filed for relief on April 16, 2015.

2. The United States Trustee has appointed the Trustee to serve as interim trustee in each of the Debtors’ cases.

#### **IV. RELIEF SOUGHT**

3. Applicant seeks a court order, substantially in the form attached here as Exhibit “A”, authorizing the Trustee to retain CBIZ as his accountants effective as of April 16, 2015 pursuant to sections 327(a) of the Bankruptcy Code. 11 U.S.C. § 327(a).

4. Section 327(a) of the Bankruptcy Code provides that a trustee may “employ one or more ... professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee’s duties.” 11 U.S.C. § 327(a); Fed. R. Bankr. P. 2014 (“An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents or other professionals pursuant to § 327 ... of the Code shall be made ... on application of the trustee...”).

5. The applicant must “state the specific facts showing the reasonableness of the terms and conditions of the employment, including the terms of any retainer, hourly fee or contingent fee arrangement.” See Local Rule 2014-1.

6. CBIZ’s retention is necessary to review and analyze all accounting matters concerning the Debtors’ financial affairs including without limitation the identification of potential causes of action under chapter 5 of the Bankruptcy Code as well as any tax issues that might arise.

7. The Trustee has selected CBIZ because of its excellent reputation and expertise in bankruptcy and insolvency proceedings. The Trustee has previously engaged CBIZ as his accountants in other matters before this Court including *In re Fortunoff Holdings, LLC and Fortunoff Card Company, LLC* (Bankr. S.D.N.Y. Case No. 09-10497-rdd); *In re Michael Mazzeo Electric Corp. and Michael Mazzeo Datacom, Inc.* (Bankr. S.D.N.Y. 11-14888-mg), *In re Sadler Recording Studios, Inc.* (Bankr. S.D.N.Y. 12-11416-reg), and others.

8. With respect to services to be rendered by CBIZ in its capacity as accountants, CBIZ understands and agrees that it shall file an application for compensation and reimbursement of expenses to this Court in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and the United States Trustee Guidelines. CBIZ shall bill at the following rates:

Directors and Managing Directors	\$420 to \$725 per hour
Managers and Senior Managers	\$305 to \$420 per hour
Senior Associates and Staff	\$130 to \$335 per hour

9. CBIZ will seek reimbursement of all reasonable and necessary expenses for accounting services performed for the Debtors' estates as provided for in the Bankruptcy Code, Bankruptcy Rules, the Local Rules of this Court and the Guidelines of the Office of the United States Trustee.

10. To the best of the Trustee's knowledge and belief and except as set forth below, CBIZ and its employees do not hold or represent any interest adverse to the estates and creditors by reason of the retention sought herein and have no connection with the Debtors, their creditors or any other parties in interest or their respective attorneys in this matter excepts as set forth in the Affidavit of Brian Ryniker attached hereto as Exhibit B. Upon information and belief the Trustee believes that CBIZ is a "disinterested person" as defined in section 101(14) of the Bankruptcy Code. 11 U.S.C. § 101(14).

11. The Trustee submits that CBIZ is qualified to act as accountants under sections 327(a) of the Bankruptcy Code and that such retention is in the "best interest" of the estate.

**V. NOTICE**

12. A request for entry of an order approving a trustee's employment of a professional under section 327 of the Bankruptcy Code may be made by filing an ex parte application with a copy transmitted to the United States Trustee. 11 U.S.C. § 327; Fed. R. Bankr. P. 2014(a); 9 Collier on Bankruptcy (15<sup>th</sup> Ed. 2001), ¶ 2014.02 at 1. Neither notice to the debtor or a hearing on the application is required. *See* 9 Collier on Bankruptcy, ¶ 2014.02 at 1, at n.4 (citing *In re Arochem Corp.*, 181 B.R. 693, 696 (Bankr. D. Ct. 1995)).

13. The Trustee has provided advance notice of this Application to the Office of the United States Trustee. Because of the nature of the relief requested, the Trustee respectfully submits that no hearing is required, and no further notice of the relief requested in this Application need be given.

**WHEREFORE**, the Trustee respectfully requests entry of an order of this Court authorizing the Trustee to retain CBIZ as his accountants under a general retainer, effective as of April 16, 2015 and for such other and different relief as this Court may deem just and proper.

Dated: New York, New York  
May 13, 2015

GAZES LLC

By: /s/ Ian J. Gazes  
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